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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,787	10/30/2003	Giuliano Morotti	2541-1012	7751

466 7590 06/28/2006

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EXAMINER
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LONEY, DONALD J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/695,787

**Applicant(s)**

MOROTTI ET AL.

**Examiner**

Donald Loney

**Art Unit**

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8,9,11-14,16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8,9,11-14,16 and 18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 18, 2006 has been entered.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 8, 9, 11-14, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over any of Stout (3077059), Arisawa (4804569) or Yaremchuk (3411257) in view of any of Alexander (2253219) or Ruby (5323762, 5618601 or 5824382).

The primary references teach a plurality of tiles/bricks bonded to a flexible support. Refer to figure 2 in Stout showing brick 18 attached to support 14. Refer to figures 1-3A in Yaremchuk showing bricks 12,14,16,30 attached to support 20. Refer to figures 2-4 in Arisawa showing tiles 6 attached to support 7. The primary references do fail to specifically recite the composite tile can be bent wherein the first and third section are orthogonal and the second section forms a quarter-circle arcuate surface (claims 9 and 14, as shown instant figure 3) or are positively as recited in claim 9. The primary references all do teach the composite tile as bendable as shown in the figures. Arisawa particularly discloses that there is no limitation as to how the tiles are arranged (i.e. the layout thereof) on the support. See column 3, lines 23-42.

All of the secondary references teach rectangular surface elements that have a space or recess there between extending the width of the whole body, being glued to a flexible substrate wherein the upper edge of the elements touch when the composite is bent in the manner recited. Alexander discloses a flexible support (12, 13 and/or 13), first and third rectangular surface elements 11 and a plurality of second rectangular surface elements (the smaller sections located between the parallel air volume recesses 15). The flexible article is bent into an orthogonal position in figure 4 with a quarter circle surface formed at the bend. The air volume recesses being triangular in this position as shown in figure 4 per claims 8, 9 and 14. All sections are bonded with glue per claims 13 and 18. All the second surface elements are of the same size and the first and third sections are of a different size than the second elements per claim 14. Refer to figures 1, 2 and 4 along with page 1, column 1, line 19 through page 1, column 2, line 53 in

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Alexander. Refer to figures 1, 8 and 13 in Ruby '762 showing the spaced sections 13, 14, 15 adhesively 26, 28 bonded to flexible backing 20, 25 or 27. Refer to figures 1a 3A, 3B and 3C in Ruby '601 showing a similar structure as to Ruby '762. Refer to figures 1a, 3a in Rudy '382. Ruby '762 shows different sized elements in figure 13. At column 3, lines 6-58 and column 6, lines 18-24, Ruby '392 discloses that the spacings, height and width of the rib members are what controls the degree of bending and that one can adjust the degree of bendability by varying these parameters in order to conform the bend to a particular application.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to the primary references to position the individual elements as recited in order to form the first and third sections orthogonal and the second section forming a quarter-circle arcuate surface, as shown by Alexander and taught can be varied to conform to any desired application by any Rudy Patent, motivated by the fact all the primary references teach that their tile composite can be bent. As stated above Arisawa specifically discloses the tiles can be positioned as desired and there is no limitation as to their layout. The examiner notes the tiles of Arisawa are disclosed as made of plastic materials, however, it is well known in the art tiles are also formed of ceramics and stone materials (see applicants disclosure).

### ***Response to Arguments***

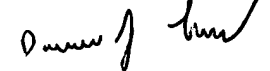
5. Applicant's arguments with respect to claims 8, 9, 11-14, 16 and 18 filed April 18, 2006 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Donald Loney  
Primary Examiner  
Art Unit 1772

DJL:D.Loney  
06/26/06